

Department of Contracts  
Notre Dame Ravelin  
Floriana

To Ministries and  
Head of Department

26 May 2010

Permanent Secretaries  
Director Generals  
Directors  
Heads of Public Sector Organisations

### **PUBLIC PROCUREMENT REGULATIONS**

Legal Notice 296 of 2010 has introduced the new public procurement regulations. These regulations will become effective as from 1<sup>st</sup> June, 2010. The aims of these regulations are the following:

- a) to adjust thresholds to current project realities
- b) to devolve the publication of tenders to contracting authorities while at the same time increase the supervision of the Department of Contracts
- c) to improve the process of transparency and fairness

Through these regulations the threshold of Departmental tenders will increase from €47,000 to €120,000. Departments will be able to publish tenders up to the new threshold without seeking the approval of the Department of Contracts. Tenders with an estimated value higher than this threshold will continue to be published by the Department of Contracts. These new legal provisions should provide more efficiency in the publication of tenders. On the other hand the award of these tenders will be carried out after obtaining approval of the Departmental Contracts Committee of the respective Ministry. This new committee will be composed of the Director Corporate Services or his representative, an officer appointed by the Permanent Secretary and a representative of the Department of Contracts. Ministries should take immediate action to appoint the Departmental Contracts Committee. This committee will be considering recommendations for the award of tenders published after **1<sup>st</sup> June 2010**. Tenders published prior to this date shall continue to be processed in line with the Public Contracts Regulations. Naturally this committee will have to be supported by a dedicated secretariat. In this regard the Department of Contracts is inviting Ministries to nominate officials for a working experience with the secretariat of a similar committee, that is, the General Contracts Committee.

Until further notice the new thresholds will not apply in respect of tenders being financed by the European Union. Tenders with an estimated value of €7,000 and higher shall continue to be vetted, published and awarded by the Department of Contracts.

The new regulations are seeking to introduce more independent review procedures in line with EU Directive 2007/66/EC. A very important concept being introduced is that the appeals period will initiate from the date of notification. Furthermore, all appeals will be dealt with by the Public Contracts Review Board irrespective of the value of the tender. It is to be noted that through these new regulations, any aggrieved bidder can file an appeal prior to the signing of the contract and also after the contract becomes effective. The Public Contracts Review Board will have the power to declare a contract ineffective if awarded illegally or if the legal procedure is not followed correctly. The Review Board may cancel the contract or award alternative penalties, such as damages to the injured party and also impose administrative penalties.

Ministries, Departments and public sector organisations are encouraged to read carefully the Public Procurement Regulations. Should there be any difficulties the Department of Contracts should be contacted for assistance.

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Director General (Contracts)